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04157

NPIC/TDS/D-822-67
1 May 1967

MEMORANDUM FOR: Assistant for Technical Development, NPIC

THROUGH : Chief, Development Staff, TDS

SUBJECT : Rear Projection Viewer

1. The undersigned attended the contract negotiation at []
[] for the procurement of a Rear Projection Viewer over the period
24-25 April 1967. Attending from [] and
representing []

2. [] opened the discussion by stating that his understand-
ing of the parties' previous agreements were the following:

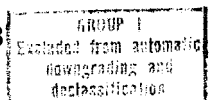
- a. A Fixed Price Supply Contract
- b. Progress payments of up to 70% of the contract price
- c. Delivery date of October 1968

3. [] immediately stated that [] was opposed to a supply
contract and they denied any previous agreement or understanding that the con-
tract would be a supply type. Even when it was pointed out that their previous
contracting officer, who has been reassigned to another division of the Corp-
oration, understood our intentions toward a supply contract and the Corpora-
tion had originally proposed on a fixed price basis (which would allow them
to retain the design as proprietary), they maintained that this was presently
unacceptable to the Corporation for the following reasons:

- a. If [] could not meet the technical specifications
after the device was completed they could be defaulted
and the Government could hold them liable for all repro-
curement costs. Under these circumstances they claim
their risk could be unlimited.

Declass Review by NGA.

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SUBJECT: Rear Projection Viewer

b. When a "walk away" clause was discussed--a clause that would still allow the Government to reject a completed instrument that didn't comply with the specifications, but not to hold them liable for reprourement costs--they rejected it because if the specifications were not met, they would have spent approximately [] and could recover nothing. Therefore, even under these conditions, their risk for non-compliance would []

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4. [] stated that the only acceptable type of contract to [] would be a supply contract with a modification clause allowing acceptance of an instrument that would substantially perform to the Government's requirements. In other words, if the specifications were substantially met the Agency would have to accept the instrument. Although this is not a "best efforts clause", it does have some similarities in that the Government could not absolutely require compliance with the specifications. Even if we were dissatisfied with the first unit, it is conceivable that we could be forced to accept it; however, [] would still be liable for the unamortized portion of the development--approximately []--which would not be recovered unless they sold additional units.

5. An additional consideration which was not discussed with [] is the following:

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a. [] has invested approximately [] into the development of a rear projection viewer for SAC which they have not been able to sell and SAC maintains they have not even requested approval to purchase the instrument. If the circumstances were such that the Air Force refused to purchase the instrument and [] had our fixed price substantial performance supply contract, it is possible that they could try to deliver that instrument claiming that is substantially satisfied our requirements. Immediately a dispute would arise because we know that this instrument will not satisfy our requirements, but [] could always argue that if the instrument satisfies the Air Force requirements, which are related to the same imagery interpreted at NPIC, then the instrument should substantially satisfy our requirement. The burden could then be on NPIC to prove to an impartial board that the instrument would not so satisfy our requirement. Under these circumstances, [] could recover [] investment and would not have to take the loss of the [] unamortized development costs even though the viewer was unacceptable to NPIC

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SUBJECT: Rear Projection Viewer

6. Because of the above factors, the parties were unable to agree on terms of a contract and negotiations were terminated.

7. The circumstances of this procurement present the following alternatives:

- a. To completely abandon the development of a rear projection viewer.
- b. To fund only the development of a zoom projection system--the major item of development, and risk, in the subject rear projection system.
- c. Procure the development from another Contractor.
- d. Support the [] development on a cost basis.
- e. Support the [] development on a modified fixed price supply basis.

8. If the Technical Development Staff's position is that NPIC will absolutely require an advanced rear projection viewer for the [] then it is recommended that alternative e be supported. Such a position automatically obviates alternative a, and b must be eliminated because of the time factor. [] and the present anticipated delivery date of the [] viewer on a fixed price supply basis is not until October 1968. This means that only fourteen months are left for evaluation, modification, procurement and fabrication of the production viewers. To add a two year delay to this already short schedule for a separate lens development would prohibit adequate utilization of this viewer []

9. The original solicitation of proposals for this development obviates alternative c. All the responses to that request for proposal were on a cost basis; in other words, none of the Contractors that bid were willing to assume any portion of the development risk. NPIC would have no guarantee that any of the other bidders could develop a satisfactory instrument. In addition, all of the bids were substantially higher--the lowest being about twice that of []--and even recognizing the fact that the Government will pay for [] [] unamortized costs if it procures production units of that viewer it will not have to support these costs either to get the first unit or if additional units are not procured. At least [] is willing to assume this substantial portion of the risk which other Contractors are not.

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SUBJECT: Rear Projection Viewer

25X1 If the [] development was supported on a cost basis, the level of contractual control to assure compliance with the performance specifications would be substantially reduced; therefore, alternative d must be rejected. In all the cost type arrangements considered, the costs incurred by the Contractor must be paid regardless of his achievement, and under this scheme the total development cost is now approximately [] for the first unit. Although this sum will probably be eventually be paid in a fixed price contract, it will be borne by the Government if, and only if, a successful unit is first developed and additional units are procured. This does provide some level of control for the Government.

25X1 10. The only alternative remaining assuming that the utilization of this equipment is necessary [] is alternative e. As previously stated, [] will continue to assume a substantial portion of the total risk--approximately [] It is reasonable to award the contract on a modified supply basis (with a substantial performance clause) because in most development efforts such as this where the instrument has never been fabricated most contractors will not assume any of the risk of an unsuccessful development. Therefore, it is recommended that a fixed price supply contract with an acceptable qualifying substantial performance clause and a guarantee that NPIC will not receive the previously fabricated SAC viewer in any form whatsoever be negotiated with []

[]
Development Staff, TDS

Distribution:

- Orig & 1 - Addressee
- 1 - NPIC/TDS/DS
- 1/2 - NPIC/TDS/DS/ESB

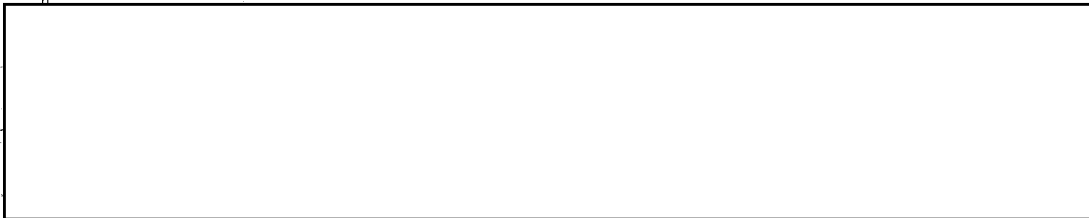
25X1 NPIC/TDS/DS [] 2 May 67)

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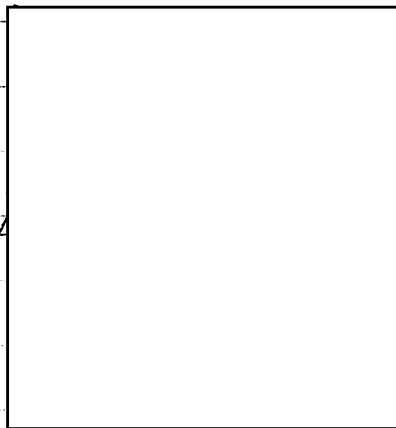
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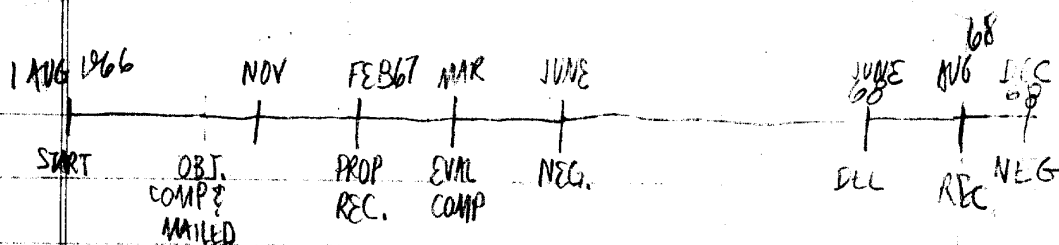


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1. PROGRESS PAYMENTS UP TO 70%
2. DELIVERY DATE OCT 1968
- 3.



FILE # 02157

STATUS IF ROOM LENS DEVELOPMENT WERE SEPARATELY

FUNKED (28 APRIL 1967) OR 2-2 1/2 YRS DELAY
FAB

G-Cont + Cont

Patterns

7.1

clear

$$\text{density } .5 = \log_{10} \frac{1}{\text{Transmittance}}$$

Solid

$$\text{density } 1.6 = \log_{10} \frac{1}{\text{Transmittance}}$$

8.1 — 450 lp/mm

clear

$$\text{density } .5 = \log_{10} \frac{1}{t}$$

Solid

$$.8 = \log_{10} \frac{1}{t}$$

$$\frac{D_1 - D_2}{D_1 + D_2} = C = \frac{1.1}{2.1} =$$



0.1 mm
1000 h
2.2

In Reply Refer to: T3500-67-261

27 April 1967

Dear Bud:

The purpose of this letter is to summarize the results of our meetings with your representatives at our facilities on April 24th and 25th, and to urge you to reconsider the method of contracting proposed.

Both of our organizations have a substantial investment in this program dating back to your Request for Proposal, 28 October 1965, outlining your development objectives for a new and unique advanced rear projection viewer. Before we allow this investment to be dissipated, we felt it incumbent upon us to present our interpretation of this last meeting, request you to review all of the factors involved and advise us of your position at your earliest convenience. We have been holding a team of professional engineering personnel together to perform this program since completion of the Model 100 screening viewer in February. If, after you have had an opportunity to review this situation, you feel there is no basis for negotiating a mutually acceptable contract, we must begin reassigning these people to other programs effective May 8.

We were unable to negotiate a contract for one basic reason - in addition to the financial risk we are willing to assume by amortizing certain non-recurring costs over the first production procurement, the fixed-price supply contract your procurement group wishes to use requires us to "guarantee" performance on a prototype unit recognized as an item to be developed in your Request for Proposal.

We would like to re-emphasize the following:

1. We intend to meet your specification.

We are a conservative company with an established reputation for supplying quality equipment. We recognize that a satisfactory prototype must be provided that meets your needs before we could hope to recover our investment in the non-recurring costs.

-2-

T3500-67-261
27 April 1967

We know that you recognize the additional financial risk involved in our accepting a supply-type contract for a development program. If we should fail to meet your specification at any point, the unit could be rejected and we could be liable for all costs incurred. This compounds the risk we have previously offered to accept.

2. We stand behind our previous quotation.

We proposed to provide you the prototype unit on a fixed-price basis covering the recurring costs and deferring the non-recurring to be amortized later. We have sufficient confidence in our ability to provide you a viewer that will satisfy your needs that we were, and still are, willing to assume this risk.

Perhaps we erred in assuming you understood this to mean a fixed-price R&D contract. To my knowledge, the first time a supply-type contract was mentioned was in the telephone conversation between [redacted] our Director of Contracts, the week of April 17th. At that time, [redacted] advised that we could not accept this type of contract for a development program.

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This situation must be equally disturbing to you since both of us have invested considerable time and effort during the past 17 months. You are now faced with losing FY '67 money and by the end of next week we will have to reassign the team we have been holding together to perform this task.

This doesn't seem reasonable to us since the present issue really hinges on the meaning of words like "guarantee" and "substantially". We've discussed above what it means to us in the form of financial risk to "guarantee" performance. Let's explore what is meant by the wording that bothers Ed if the contract recognizes the developmental nature of the program. If we "substantially" meet your specification, he is concerned that in effect you could be forced to accept the prototype even though it did not satisfy your needs. Certainly this is subject to interpretation, but we believe it does not take into consideration the incentive we have to provide you a satisfactory product.

-3-

T3500-67-261
27 April 1967

This "incentive" is the estimated in non-recurring costs which we will have accumulated by the time the prototype is completed. Our only chance of recovering this investment - which we are sure you recognize is greater than the contract amount under discussion - is if you order production quantities.

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We will contact you next week after you have had an opportunity to review this situation to determine if there isn't a satisfactory method of capitalizing on our mutual investment in this program. Thank you for your consideration.

Sincerely,

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VWH/HVB/sd

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☐ UNCLASSIFIED

☒ CONFIDENTIAL

☐ SECRET

☐ 02157 (specify)

Approved For Release 2005/05/02 : CIA-RDP78B04770A001900020003-8
REQUEST TO PROCUREMENT DIVISION FOR SERVICES
(other than property or building maintenance and repairs)

INSTRUCTIONS: (1) As appropriate, refer to Contract, Task Order, Proposal Numbers and attach any proposals, specifications or justifications. Obtain hereon or attach evidence of R & D approval as required by DDCI Memo of 23 December 1963, ER 63-8811. (2) Obtain Technical Officer approval or concurrence as appropriate. (3) Include in the narrative portion amplification of particular security requirements and any delivery or consignee instructions.

REQUEST NO. 55-8630-67 (A-1)	DATE OF REQUEST 5 April 1967	PROCUREMENT DIV. ASSIGNMENT	DATE RECD IN PD.
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TYPE OF SERVICE REQUESTED

REQUESTING OFFICE
NPIC

<input checked="" type="checkbox"/> RESEARCH/DEV. (1) (2) (3)	OTHER-SPECIFY (2) (3)
<input type="checkbox"/> GRANT (1) (2) (3)	
<input type="checkbox"/> REPAIR (3)	
<input type="checkbox"/> MAINTENANCE (3)	
<input type="checkbox"/> MODIFICATION (1) (2) (3)	

ARE AVAILABLE. CHARGE TO FAN 7155-4102

DATE
7 APR 1967

REPAIR OR MAINTENANCE SERVICE HAS
BEEN SATISFACTORILY COMPLETED

SIGNATURE

DATE

MATERIAL LOCATED OR SERVICES TO BE PERFORMED AT

NARRATIVE DESCRIPTION OF SERVICES REQUESTED

Increase funding by [] to cover ~~research~~ increased rates approved during the negotiation period for one advanced Rear Projection Viewer.

Approved by D/NPIC on 4 April 1967